# EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.:** 2006-1813-PST-E **TCEQ ID:** RN100814458 **CASE NO.:** 31790

RESPONDENT NAME: Flying J Inc. dba Flying J C Store

ORDER TYPE:		
X 1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING
FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
AMENDED ORDER	_EMERGENCY ORDER	
CASE TYPE:		
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE
PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION
TYPE OF OPERATION: Convenience store will SMALL BUSINESS:YesXNo OTHER SIGNIFICANT MATTERS: There are location.  INTERESTED PARTIES: No one other than the COMMENTS RECEIVED: The Texas Register CONTACTS AND MAILING LIST:  TCEQ Attorney/SEP Coordinator: No TCEQ Enforcement Coordinator: Moderate David Van Soest, Enforcement Division Respondent: Mr. Jeff Larson, Director Mr. Phillip Adams, President and Register Contacts and Register Coordinator of the Coordi	e no complaints. There is no record of additional per the ED and the Respondent has expressed an interest of comment period expired on April 16, 2007. No conformet some some some some some some some some	nding enforcement actions regarding this facility in this matter.  mments were received.  ment Section IV, MC 128, (512) 239-2136; Mr.  11 Horizon Boulevard, El Paso, Texas 79928

**DOCKET NO.:** 2006-1813-PST-E

#### **VIOLATION SUMMARY CHART: VIOLATION INFORMATION** PENALTY CONSIDERATIONS CORRECTIVE ACTIONS Bangara Banbara Bara TAKEN/REQUIRED AND A SOL Type of Investigation: Total Assessed: \$5,457 **Corrective Actions Taken:** Complaint X Routine Total Deferred: \$1,091 1) The Executive Director recognizes that \_\_\_ Enforcement Follow-up X Expedited Settlement Flying J has implemented the following Records Review corrective measures at the Facility: Financial Inability to Pay Date(s) of Complaints Relating to this Case: a. Marked the top of each fill tube of each UST on September 26, 2006; and None SEP Conditional Offset: \$0 Date of Investigation Relating to this Case: b. Began maintaining UST records on Total Paid to General Revenue: \$4,366 August 22, 2006 September 26, 2006. Site Compliance History Classification Date of NOE Relating to this Case: October **Ordering Provisions:** High X Average Poor 2, 2006 (NOE) **Person Compliance History Classification** 2) The Order will require the Respondent to: Background Facts: This was a routine \_\_ High \_X\_ Average \_\_ Poor investigation. Three violations were a. Within 30 days after the effective date of this documented. Agreed Order, submit an amended registration Major Source: X Yes No to reflect the current operator information; and WASTE Applicable Penalty Policy: September 2002 b. Within 45 days after the effective date of this 1) Failed to ensure that a legible tag, label, or Agreed Order, submit written certification and marking with the tank number is permanently include detailed supporting documentation applied upon or affixed to either the top of the including photographs, receipts, and/or other fill tube or to a nonremovable point in the records to demonstrate compliance with immediate area of the fill tube according to the Ordering Provision No. 2.a. underground storage tank (UST) registration and self-certification form [30 Tex. ADMIN. CODE § 334.8(c)(5)(C)]. 2) Failed to provide written notice of any change or additional information to the Commission within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition. Specifically, the registration was not updated to reflect the type of release detection method being used for the UST system at the Facility [30 Tex. ADMIN. CODE § 334.7(d)(3)]. 3) Failed to have required UST records maintained, readily accessible and available for inspection upon request by a representative of the TCEQ. Specifically, the inventory control records were not available for immediate review [30 Tex. Admin. Code § 334.10(b)].

		Penalty Calculation Worksheet (PCW)	
Policy Revi	ision 2 (Sep	eptember 2002) PCW	Revision February 15, 2005
TCEQ	<del>ye</del>		
DATES A	Assigned	ed 9-Oct-2006   Same aring 20 Nov. 2006   EBA Due	
· · · · · · · · · · · · · · · · · · ·	PCW	W 30-Oct-2006 Screening 28-Nov-2006 EPA Due	
DECDONDENT/	EACILITY	TY INFORMATION	
		nt Flying J Inc. dba Flying J C Store	
		o. RN100814458	
		on 6-El Paso Major/Minor Source Major	
	o rrogion		
CASE INFORMA	NOITA		
	se ID No.	o. 31790 No. of Violations 3	
Do	cket No.	o. 2006-1813-PST-E Order Type 1660	
Media Pro	ogram(s)	s) Petroleum Storage Tank Enf. Coordinator Jason Godea	ux
Mu	ılti-Media	ia EC's Team Enforcement	eam 7
Admin. P	enalty \$	\$ Limit Minimum \$0 Maximum \$10,000	
		Penalty Calculation Section	
TOTAL DACE	DENIA	and the second of the control of the	\$5,100
IOTAL BASE	PENA	ALTY (Sum of violation base penalties)  Subtotal 1	Ψ0,100
ADJUSTMEN	TC /_/_\	/-) TO SUBTOTAL 1	The Carendar Bridge
		tained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
	ance Hist		\$357
Compile			L
	Notes	Enhancement for two prior NOVs, one with same or similar violations	
		and one without same or similar violations.	
Culpabi	lity	No 0% Enhancement Subtotal 4	\$0
P. Control of the Con			WARRY OF THE PROPERTY OF THE P
	Notes	es The respondent does not meet the culpability criteria.	
Good F	aith Effo	fort to Comply 0% Reduction Subtotal 5	\$0
Good	aitii Liio	Before NOV NOV to EDPRP/Settlement Offer	
E	Extraordinar		
	Ordinar	ary	000000
	N/A	V/A X (mark with x)	***************************************
	Notes	es The respondent does not meet the good faith criteria.	
		and the second s	60
		0% Enhancement* Subtotal 6	\$0
	Annrox	Total EB Amounts \$5 *Capped at the Total EB \$ Amount ox. Cost of Compliance \$300	
	Approx	5.0 Oct of Oshiphanoo	APP CONTRACTOR OF THE CONTRACT
SUM OF SUE	3ΤΩΤΔΙ	ALS 1-7 Final Subtota	\$5,457
00111 01 001	J. O 17 W		
OTHED EVO.	TODE A	AS JUSTICE MAY REQUIRE Adjustment	\$0
		al Subtotal by the indicated percentage. (Enter number only, e.g30 for -30%.)	<u> </u>
reduces of enhance	so uto i itai	an Outstellandy the indicated personage. (Enter number only, e.g. 65 for 65 for	
N	otes		
	0.00		
		Final Penalty Amount	t \$5,457
STATUTORY	LIMIT	Γ ADJUSTMENT Final Assessed Penalty	\$5,457
CIAISIONI		The Colonial Colonia Colonial Colonial Colonia Colonial Colonial Colonial Colonial Colonial Colonial Colonial C	n
DEFERRAL		20% Reduction Adjustmen	-\$1,091
	ssessed Da	Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)	- 41,001
Loudoos die i liidi M		onary wy are mainted percentage. (Enter mainter only, e.g. 20 for 2070 readountly	:
· N	lotes	Deferral offered for expedited settlement.	
i i	10100	Botonal onoted for expedited obtainment	
PAYABLE PI	ENALTY	ry	\$4,366
		4 1	7 .,000

Docket No. 2006-1813-PST-E

Policy Revision 2 (September 2002)

PCW Revision February 15, 2005

Respondent Flying J Inc. dba Flying J C Store

Case ID No. 31790

Reg. Ent. Reference No. RN100814458

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jason Godeaux

Compliance History Site Enhancement (Subtotal 2)

NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	Ö	0% .
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission		0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)		0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government		0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	Ö	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)		0%
Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege	0	0%
	Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)  Plea	se Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
Outlot	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment F	Percentage (Si	ubtotal 2)
t Violator (Su	btotal 3) and the selection of the selec		
No	Adjustment F	Percentage (St	ubtotal 3)
liance History	Person Classification (Subtotal 7)	il as alkar	Sign e pe
Average Po	erformer Adjustment P	ercentage (Su	ubtotal 7)
llance History	Summary		M
Compliance History Notes	Enhancement for two prior NOVs, one with same or similar violations and one without sar violations.	me or similar	
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Screening	g <b>Date</b> 28-Nov-2006	<b>Docket No.</b> 2006-1813-PST	-E .	PCW
Respo	<b>ndent</b> Flying J Inc. dba Flyin	ng J C Store	Policy Revisior	2 (September 2002)
Case	<b>ID No.</b> 31790		PCW Revision	on February 15, 2005
Reg. Ent. Referen	<b>ce No.</b> RN100814458	t en		
Media [St	tatute] Petroleum Storage Ta	ank		
	linator Jason Godeaux			
Violation I				
Rule	Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(C)		
Violation Des	permanently a	te that a legible tag, label, or marking with the tan applied upon or affixed to either the top of the fill to oint in the immediate area of the fill tube accordin registration and self-certification form.	ube or to a	
			Base Penalty	\$10,000
OR	perty and Human Health Hari Release Major Model Actual	m ·	0%	
>Programmatic Matri	X			
Fals	ification Major Mode			
1 (1 × 1, 1 ) 24 (1 ) (1 ) (1 ) (1 ) (1 ) (1 ) (1 ) (1	x	Percent	25%	
Matrix Notes	100% of the	e rule requirement was not met.  Adjustment	\$7,500	•
				\$2,500
				7-/
/iolation Events	Paramagnesia est de la		Anne Jacque March Children	
Numl	per of Violation Events 1	35 Number of viola	ation days	
	daily monthly quarterly semiannual annual single event x		tion Base Penalty	\$2,500
	Augu	ed based on documentation of the violation durinust 22, 2006 investigation.		
Economic Benefit (EB	) for this violation	Statutory Li	mit Test	
	stimated EB Amount	\$0 Violation F	Final Penalty Total	\$2,675

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Respondent	Flying J Inc. db	a Flying J C Store					
Case ID No.	31790					18. 18.1 (198	
Reg. Ent. Reference No.	RN100814458						and the second second
Media	Petroleum Stora	age Tank				[ n	Years of
Violation No.	1				and the second	Percent Interest	Depreciation
					S. C. Schallenberg,	6.0	15
	ltem Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	management of the second secon
		Date Required	Fillal Date	119	Interest Saveu	and an antimities of the state	
Item Description	No commas or \$			9 4167		is alterated a office	y.
1 - 420 AJA 481 PAR 120 JOS SAL	entrant and the	. To the contract statement work	visio in Marine deliver e				
Delayed Costs	Messalla			1			
Equipment	figure and discussion in		rijati Hilbiri	0.0	\$0	\$0	\$0
Buildings		A Same of the state of the state of	The Association in Authorized	0.0	\$0 \$0	\$0 \$0	\$0 \$0
Other (as needed) Engineering/construction	The section of the facility of the section of the s	Strongerschlaugen in der	personal substitution of the second	0.0	\$0 \$0	\$0 \$0	\$0 \$0
Land	Recombined to the second	Property of the end of		0.0	\$0	n/a	\$0
Record Keeping System		3 24 1 1 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3		0.0	\$0	n/a	\$0
Training/Sampling	7, 7, 7, 7, 7, 7, 7, 7, 7, 7, 7, 7, 7, 7	Maria de la constitución de la c	Self-Ashin Construction Lightness	0.0	\$0	n/a	\$0
Remediation/Disposal				0,0	\$0	n/a	\$0
Permit Costs			100	0.0	\$0	n/a	\$0
Other (as needed)	\$100	22-Aug-2006	26-Sep-2006	0.1	\$0	n/a	\$0
•	Fetimated cost						
Notes for DELAYED costs  Avoided Costs	المالية المساورة الم	t to label the tank fil	ll ports. The Date date	Require of comp	ed is the date of involutions	estigation and the F	Final Date is the
Notes for DELAYED costs	المالية المساورة الم	t to label the tank fil	ll ports. The Date date	Require of comp	ed is the date of involutions	estigation and the F	Final Date is the
Notes for DELAYED costs  Avoided Costs	المالية المساورة الم	t to label the tank fil	ll ports. The Date date	Require of comp ntering 0.0 0.0	is the date of involunce.	vestigation and the F	inal Date is the
Notes for DELAYED costs  AVOIDED COSTS DIsposal Personnel Inspection/Reporting/Sampling	المالية المساورة الم	t to label the tank fil	ll ports. The Date date	Require of comp ntering 0.0 0,0	is the date of involunce.  item (except for \$0 \$0 \$0 \$0	vestigation and the F	costs) \$0 \$0 \$0 \$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	المالية المساورة الم	t to label the tank fil	ll ports. The Date date	Require of composite ring 0.0 0.0 0.0 0.0 0.0	is the date of involunce.  Item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0	vestigation and the F one-time avoided of \$0 \$0 \$0 \$0	costs) \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs  AVOIDED COSTS Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	المالية المساورة الم	t to label the tank fil	ll ports. The Date date	Require of composition of compositio	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	vestigation and the F	costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs  AVOIDED COSTS Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	المالية المساورة الم	t to label the tank fil	ll ports. The Date date	Require of composition of compositio	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	vestigation and the F one-time avoided of \$0 \$0 \$0 \$0 \$0 \$0 \$0	Costs)  \$0  \$0  \$0  \$0  \$0  \$0  \$0  \$0  \$0  \$
Notes for DELAYED costs  AVOIDED COSTS Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	المالية المساورة الم	t to label the tank fil	ll ports. The Date date	Require of composition of compositio	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	vestigation and the F	costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
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Avoided Costs  Avoided Costs  Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	المالية المساورة الم	t to label the tank fil	ll ports. The Date date	Require of composition of compositio	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	vestigation and the F one-time avoided of \$0 \$0 \$0 \$0 \$0 \$0 \$0	Costs)  \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs  Avoided Costs  Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	المالية المساورة الم	t to label the tank fil	ll ports. The Date date	Require of composition of compositio	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	vestigation and the F one-time avoided of \$0 \$0 \$0 \$0 \$0 \$0 \$0	Costs)  \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs  Avoided Costs  Disposal Personnel Inspection/Reporting/Sampling Suppiles/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	المالية المساورة الم	t to label the tank fil	ll ports. The Date date	Require of composition of compositio	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	vestigation and the F one-time avoided of \$0 \$0 \$0 \$0 \$0 \$0 \$0	Costs)  \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs  Avoided Costs  Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	المالية المساورة الم	t to label the tank fil	ll ports. The Date date	Require of composition of compositio	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	vestigation and the F one-time avoided of \$0 \$0 \$0 \$0 \$0 \$0 \$0	Costs)  \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0

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Screen	ing Date 28-Nov-2006		Docket No. 2006-1813	-PST-E	PCW
Res	<b>pondent</b> Flying J Inc. dl	oa Flying J C Store		•	Policy Revision 2 (September 2002)
	se ID No. 31790				PCW Revision February 15, 2005
Reg. Ent. Refer	<b>ence No.</b> RN100814458				
Media	[Statute] Petroleum Sto	rage Tank			
Enf. Cod	ordinator Jason Godeau	X			a ·
	on Number 2				
R	tule Cite(s)	30 Tex. Admi	n. Code § 334.7(d)(3)		
Violation <b>E</b>	within 30 days Description of the date on	de written notice of any ch from the date of the occur which the owner or operat , the registration was not u method being used for	rence of the change or ac or first becomes aware of	Idition, or within 30 the change or add of release detection	days lition.
				Base Pe	nalty \$10,000
>> Environmental, F	Property and Human	Health Matrix	and and the second second	Acceptance for the con-	
AND DESCRIPTION OF THE PROPERTY OF THE PROPERT		Harm	,		
<b>6</b> D	Release Major	Moderate Minor	1		
OR	Actual		Percent	0%	•
	Potential		reicein	0 761	
>>Programmatic Ma	atrix	Harrist Committee of the Committee of th	46		
	alsification Major	Moderate Minor	ia kupathakilisi KES 1946		
	x I		Percent	25%	
personal PS			····		
Matrix Notes	100	0% of the rule requirement	was not met.  Adjustment	\$	7,500
					\$2,500
					\$2,500
Violation Events	interpretation of the contract	Light Street on the Committee of the Com	profession in the	research and the California	
, remains and markets	A COMPANY OF THE PROPERTY OF T	S S S S S S S S S S S S S S S S S S S			.00000000000
N	umber of Violation Events	1	99 Number o	f violation days	
	water a new control of the control o				
	daily			• .	
	monthly			Violation Base Pe	enalty \$2,500
	mark only one quarterly  with an x semiannual			Violation base re	maity
	annual				
	single event	x			•
	One single event is reco	mmended based on docun August 22, 2006 investiga		during the	
Economic Benefit (	EB) for this violation		Statuto	ry Limit Test	
	Estimated EB Amount	\$4	∏ Viola	tion Final Penalty	Total \$2,675
	Estimated Est Amount	Ψ			b
		This violati	on Final Assessed Pena	alty (adjusted for I	imits) \$2,675
Company Company	A CONTRACTOR OF THE PARTY OF TH	and the second s	manual manual and a second of	2 - 2 - 2 - 2 - 2 - 2 - 2 - 2 - 2 - 2 -	

		a Flying J C Store			A section of the first		r is the
Case ID No.	F4					11 Jan 198	ta <sup>ch</sup>
Reg. Ent. Reference No.			•			************************	Patricipa de la composição
Media Violation No.	Petroleum Stor	age Tank				Percent Interest	Years of Depreciation
					Xur.siXX &	5.0	18
arish dayan ya	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	CONTRACTOR OF THE PROPERTY OF
Item Description		Martine Her (169-12) at the letter of	Markey received	24433344II	(Participal) a est Participal (Perci	18 50-38-54	A Charles of the Control
item bescription	i No commas or \$			38,75,75		Parallet of our	74
Delayed Costs	reini ji je saugoresireli		USDNASOBELY, proposition of	W. W. C. C. L. C.		EVOLUS DE L	
Equipment			ppy and a control of	0,0	\$0	\$0	\$0
Buildings	255234449452454444	Transaction Control		0.0	\$0	\$0	\$0
Other (as needed)		In the last to the	** 1 T	0.0	\$0	\$0	\$0
Engineering/construction	100000000000000000000000000000000000000			0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	To the state of			0.0	\$0	n/a	\$0
Training/Sampling	Tarana and a same			0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs					do.		
remin costs		Manager and the control of the contr		0.0	\$0	n/a	\$0
Other (as needed)	\$100 Estimated cost			0.9 tion form	\$4 n to the TCEQ; Th	è Date Required is	\$0 \$4 the investigation
Other (as needed)  Notes for DELAYED costs	Estimated cost	to submit an amer date ar	nded UST registra nd the Final Date i	0.9 tion forn s the es	\$4 n to the TCEQ. Th timated date of co	e Date Required is mpliance.	\$4 the investigation
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Other (as needed)  Notes for DELAYED costs  Avoided Costs	Estimated cost	to submit an amer date ar	nded UST registra nd the Final Date i	0.9 tion form s the es	\$4  In to the TCEQ; The timated date of column (except for	e Date Required is mpliance.	\$4 the investigation
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Other (as needed)  Notes for DELAYED costs  Avoided Costs  Disposal Personnel	Estimated cost	to submit an amer date ar	nded UST registra nd the Final Date i	tion forms the es	\$4  In to the TCEQ; The timated date of column (except for \$0 \$0 \$0	e Date Required is mpliance.	\$4 the investigation costs)
Other (as needed)  Notes for DELAYED costs  AVOIDED COSTS  Disposal Personnel Inspection/Reporting/Sampling	Estimated cost	to submit an amer date ar	nded UST registra nd the Final Date i	tion forms the est	\$4  In to the TCEQ; The timated date of collision (except for \$0 \$0 \$0 \$0 \$0	e Date Required is mpliance.  one-time avoided of \$0 \$0 \$0	\$4 the investigatio costs) \$0 \$0 \$0
Other (as needed)  Notes for DELAYED costs  Avoided Costs  Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	Estimated cost	to submit an amer date ar	nded UST registra nd the Final Date i	0.9 tion forms the est entering 0.0 0.0 0.0 0.0	\$4  In to the TCEQ; The timated date of continuous tem (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	e Date Required is mpliance.  one-time avoided of \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$4 the investigatio  sosts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
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Screening Date	28-Nov-2006	Docket No. 20	06-1813-PST-E	PCW
Respondent	Flying J Inc. dba Flying J C	Store	F	Policy Revision 2 (September 2002)
Case ID No.				PCW Revision February 15, 2005
Reg. Ent. Reference No.				
	Petroleum Storage Tank			000000000000000000000000000000000000000
Enf. Coordinator	7			
Violation Number				
Rule Cite(s)		30 Tex. Admin. Code § 334.10	O(b)	
Violation Description	inspection upon request b	IST records maintained, readily by a representative of the TCE ords were not available for imr	Q. Specifically, the invent	e for tory
			Base Pe	enalty \$10,000
>> Environmental, Property	and Human Health Mat Harm	OX PREMIMERACIES PRESIDENT	N DINGS ENGLISHED TO SEE	WWW.Addition.
Release		Minor		
OR Actua			<i>-</i>	or and the second secon
Potentia		P	ercent 0%	
		COMMENTS OF STREET		
>>Programmatic Matrix Falsification	Major Moderate	Minor		
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Main (diff) (2733)				
Matrix Notes	Less than 30% of the	rule requirement was not met		
		Adj	ustment \$	9,900
				\$100
Name at the second of the seco		CONTRACTOR CONTRACTOR	contract to the contract	
Violation Events	AND PARTY OF THE P	and the company of th	aunisiiskassa eetä maltuul 1876. S	
Number of V	iolation Events 1	35 N	lumber of violation days	
		-		on the same of the
mark only one with an x	daily monthly quarterly semiannual annual single event x		Violation Base Pe	enalty \$100
One sing		sed on documentation of the v , 2006 investigation.	iolation during the	
Economic Benefit (EB) for t	his violation	CONTRACTOR OF STATE O	Statutory Limit Test	
Estimat	ed EB Amount	\$0	Violation Final Penalty	Total \$107
www.		This violation Final Assesse	ad Penalty (adjusted for	limits) \$107
		The Violation Final Assessed		Marin Trapporter Republic

	Petroleum Stor	rage Tank					Years of
Violation No.	3					Percent Interest	Depreciation
				344.0	Architectus Carl	5.0	1
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$	articles (1980)	amanggalas is intana atom		il (a Circum antiga iliyan), tip manganan		
Delayed Costs	earni, apin i, paridit la	, noga bedropp. Sukurska s					
Equipment	ASSOCIATION CONTRACTOR AND A STORY	illulus taraukaisek, apateis		0.0	\$0	\$0	\$0
Buildings	عناماسيس فالمادة	( Majorial College - College - College	Language in Mandales, description on the 4 of 5	.0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction			Maria de La Companya	0,0	\$0	\$0	\$0
Land			<u> </u>	0,0	\$0	n/a	\$0
Record Keeping System	\$100	22-Aug-2006	26-Sep-2006	0.1	\$0	n/a	\$0
Training/Sampling	i i i i i i i i i i i i i i i i i i i	التنجيب المستحدال		0.0	\$0	n/a	\$0,
Remediation/Disposal	refrequency they are used the	The State of the S	process and grant constitution of the	0.0	\$0	n/a	√\$0
Permit Costs				0.0	\$0	⊮asa. n/a	\$0
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Disposal Personnel	18123		Here a grow the analysis of the			du du	<b>\$</b> 0
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Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]			He is a second of the second o	0.0 0.0 0.0 0.0	\$0 \$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0
Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	756722.5		SQLIV	0.0 0.0 0.0	\$0 \$0 \$0	\$0 \$0	\$0 \$0

## **Compliance History**

Customer/Responden	nt/Owner-Operator:	CN600241970	Flying J Inc.		Classification: AVERAGE	Rating: 3.02
Regulated Entity:		RN100814458	FLYING J C STORI	Ξ.	Classification: AVERAGE	Site Rating: 1.40
						4
ID Number(s):		AIR NEW SOURC		ACCOUNT		EE1111D
		PETROLEUM STOREGISTRATION	ORAGE TANK	REGISTRA	ATION	36577
Location:		1301 HORIZON B	LVD, EL PASO, TX, 79	928	Rating Date: 9/1/2006 Repe	eat Violator: NO
TCEQ Region:		REGION 06 - EL F	PASO			
Date Compliance Hist	tory Prepared:	October 10, 2006				
Agency Decision Req	uiring Compliance History:	Enforcement				
Compliance Period:		October 10, 2001	to October 10, 2006			·
TCEQ Staff Member t	to Contact for Additional Informa	ation Regarding this	Compliance History			
Name: Ja	son Godeaux	Ph	one: 512-239-2	2541	<u>.</u>	
		Site	Compliance History	Components		
1 Has the site heen i	n existence and/or operation for			Yes		
	known) change in ownership of			Yes		
3. If Yes, who is the c				CFJ Prop	erties	
4. if Yes, who was/w	ere the prior owner(s)?			<u> </u>	erstate Corporation	-
				Epic Enter		
5. When did the char	nge(s) in ownership occur?			08/02/200	5	<del></del>
Components (Mul	timedia) for the Site :					
A. Final Enfo	orcement Orders, court judgeme	ents, and consent de	crees of the state of Te	xas and the federal go	vernment.	
N/A						
D. Anna naimeir	mal and victions of the state of To	avec and the federal	government			
B. Any crimii N/A	nal convictions of the state of Te	exas and the receian	government.			
	excessive emissions events.					
N/A						
D. The appro	oval dates of investigations. (CC	EDS Inv. Track. No	.)			
<sup>5</sup> / <sub>2</sub> 1	11/19/2002 (14724)					
	11/30/2005 (437248)					
	08/14/2002 (2893) 04/10/2003 (31919)					
5 .	10/03/2006 (514144)				•	
<u> </u>	04/07/2006 (456948)					
7	10/29/2001 (73775) 03/13/2002 (73776)					
9 .	10/27/2004 (338477)					
10	11/20/2003 (255153)					
11	08/03/2004 (281241)				•	
	05/02/2006 (463007)					
	otices of violations (NOV). (CCE	EDS Inv. Track, No.)			,	
	te: 05/05/2006 (463007)			Classification: Moder	ata	
	If Report? NO ation: 30 TAC Chap	tor 115 SubChantor	C 115 244(3)	Classification. Woder		
	00 1710 01144	ter 115, SubChapter aduct monthly inspec		ection of the dry breaks	i.	
	of Report? NO			Classification: Moder		
		ter 115, SubChapte	r C 115.246(1)	•		
	00 1710 0114		CARB order (G-70-150	-AE) onsite.		
	ate: 04/06/2006 (456948)					
90	olf Report? NO			Classification: Moder	ate	

Citation:

30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description:

Facility failed to number their tanks according to their registration/self-certification

Self Report? NO

30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Citation: Description:

Facility failed to amend their UST Registration to indicate the correct release

Self Report? NO

Classification: Minor

Classification: Moderate

30 TAC Chapter 37, SubChapter I 37.875[G]

Citation: Description:

The facility failed to have their financial responsibilty documentation in the TCEQ

format.

F. Environmental audits.

Type of environmental management systems (EMSs). G.

Voluntary on-site compliance assessment dates. H.

Participation in a voluntary pollution reduction program. 1.

N/A

Early compliance. J.

N/A

Sites Outside of Texas

N/A

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



To Aller Congress

IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
FLYING J INC. DBA FLYING J C	§	
STORE	§	ENVIRONMENTAL QUALITY
RN100814458	§	

### AGREED ORDER DOCKET NO. 2006-1813-PST-E

#### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Flying J Inc. dba Flying J C Store ("Flying J") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Flying J appear before the Commission and together stipulate that:

- 1. Flying J operates a convenience store with retail sales of gasoline at 1301 Horizon Boulevard in El Paso, El Paso County, Texas (the "Facility").
- 2. Flying J's five underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
- 3. The Commission and Flying J agree that the Commission has jurisdiction to enter this Agreed Order, and that Flying J is subject to the Commission's jurisdiction.
- 4. Flying J received notice of the violations alleged in Section II ("Allegations") on or about October 7, 2006.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Flying J of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Five Thousand Four Hundred Fifty-Seven Dollars (\$5,457) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Flying J has paid Four Thousand Three Hundred Sixty-Six Dollars (\$4,366) of

the administrative penalty and One Thousand Ninety-One Dollars (\$1,091) is deferred contingent upon Flying J's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Flying J fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Flying J to pay all or part of the deferred penalty.

- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and Flying J have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director recognizes that Flying J has implemented the following corrective measures at the Facility:
  - a. Marked the top of each fill tube of each UST on September 26, 2006; and
  - b. Began maintaining UST records on September 26, 2006.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Flying J has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

#### II. ALLEGATIONS

As operator of the Facility, Flying J is alleged to have:

- 1. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form, in violation of 30 Tex. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on August 22, 2006.
- 2. Failed to provide written notice of any change or additional information to the Commission within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, in violation of

- 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on August 22, 2006. Specifically, the registration was not updated to reflect the type of release detection method being used for the UST system at the Facility.
- 3. Failed to have required UST records maintained, readily accessible and available for inspection upon request by a representative of the TCEQ, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on August 22, 2006. Specifically, the inventory control records were not available for immediate review.

#### III.DENIALS

Flying J generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Flying J pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Flying J's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Flying J Inc. dba Flying J C Store, Docket No. 2006-1813-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that Flying J shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit an amended registration to reflect the current operator information, in accordance 30 Tex. ADMIN. CODE § 334.7 to:

Registration and Reporting Section Permitting & Remediation Support Division, MC-138 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including

4.

Flying J Inc. dba Flying J C Store DOCKET NO. 2006-1813-PST-E Page 4

photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Waste Section Manager El Paso Regional Office Texas Commission on Environmental Quality 401 East Franklin Avenue, Suite 560 El Paso, Texas 79901-1206

- 3. The provisions of this Agreed Order shall apply to and be binding upon Flying J. Flying J is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If Flying J fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Flying J's failure to comply is not a violation of this Agreed Order. Flying J shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Flying J shall notify the Executive Director within seven days after Flying J becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Flying J shall be made in

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 $(x_{i,j}) \triangleq (x_{i,j}) \cdot (x_{i,j}) + (x_{i,j}) \cdot (x_{i,j}) + (x_{i,j}) \cdot (x_{i,j})$ 

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et de la comparte de la co La comparte de la comparte del comparte della comparte Flying J Inc. dba Flying J C Store DOCKET NO. 2006-1813-PST-E Page 5

writing to the Executive Director. Extensions are not effective until Flying J receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

- 6. This Agreed Order, issued by the Commission, shall not be admissible against Flying J in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Flying J, or three days after the date on which the Commission mails notice of the Order to Flying J, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	$\frac{8/9/2007}{Date}$
I, the undersigned, have read and understand the atta- attached Agreed Order on behalf of the entity, if any, terms and conditions specified therein. I further ack the penalty amount, is materially relying on such repr	, indicated below my signature, and I do agree to the mowledge that the TCEQ, in accepting payment for
<ul><li>penalties, and/or attorney fees, or to a collecti</li><li>Increased penalties in any future enforcement</li></ul>	n: abmitted by me; I's Office for contempt, injunctive relief, additional on agency; actions against me; Office of any future enforcement actions against me; aw.
Signature Williams	2-12-07 Date
Name (Printed or typed) Authorized Representative of Flying J Inc. dba Flying J C Store	Divector, Heath, Safety and Title Environmenta

**Instructions**: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order

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